

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

DR DISTRIBUTORS, LLC,

Plaintiff-Counter-Defendant,

v.

21 CENTURY SMOKING, INC., and BRENT
DUKE,

Defendants-Counterclaimant,

v.

CB DISTRIBUTORS, INC., and CARLOS
BENGOA,

Counter-Defendants/Counterclaimants.

Case Number: 3:12 – cv – 50324

District Judge: Iain D. Johnston

Magistrate Judge: Margaret J.
Schneider

**PLAINTIFFS' STATUS REPORT AND MOTION TO ORDER IMMEDIATE PAYMENT
OF MONETARY SANCTIONS AND FOR OTHER MISCELLANEOUS RELIEF**

Plaintiff DR Distributors, LLC, and Counter-Defendants/Counterclaimants CB Distributors, Inc. and Carlos Bengoa (collectively "Plaintiffs"), by and through their counsel, respectfully provide this Court with a Status Report on various issues related to this matter and contemporaneously request that this Court order that the \$2,526,744.46 monetary sanction be paid immediately by Defendants, Brent Duke and 21 Century Smoking, Inc., and FDC Leavens and Stamatis (the "Sanctioned Parties") given developments in the Leavens' Bankruptcy Proceeding and for other good cause.

A. Forthcoming Distributions from Leavens' Bankruptcy Estate Compel Plaintiffs to Seek An Order That the Monetary Sanctions Be Paid Now

Over one year ago, this Court entered the Monetary Sanctions Order in favor of Plaintiffs and against the Sanctioned Parties. [Dkt. 541]. The Plaintiffs have received nothing monetarily on

a Sanctions process that started over five years ago. On January 5, 2023, Plaintiffs submitted their Position Statement [Dkt. 563] urging the Court to order the Sanctioned Parties to immediately pay the respective amounts provided for in the Monetary Sanctions Order. Without such an Order, Plaintiffs have been unable to take any action to exercise creditors' rights or remedies to collect on or enforce the Monetary Sanctions Order.

As the Court will recall, the progress of this matter was interrupted by the Leavens Bankruptcy filing on October 29, 2021 and the automatic stay associated with same. Subsequently, the stay as to this matter was lifted on April 5, 2022. We have been advised that the Bankruptcy Trustee in the Leavens Bankruptcy has nearly completed his duties, marshalled assets on behalf of creditors and is preparing his final report and recommendations to the Bankruptcy Court this month (December 2023). Upon approval by the Bankruptcy Court, this will result in a distribution to creditors (after Trustee related expenses) to DR, Brent Duke/21CS and Kevin Salam on an attorney's lien. We understand that the total amount of funds in the Leavens Bankruptcy Estate, before expenses and distributions, is approximately \$300,000.

When distributions are made, Duke/21CS and Kevin Salam will be paid out of the Estate based on their claims which have been approved by the Bankruptcy Court. Unless this Court orders the Monetary Sanction be paid now and before the Trustee's Report is finalized and distributions made, Plaintiffs will be further prejudiced by being unable to assert their right to attach these distributions. As the Court may recall, upon questioning by the Court at the first Sanctions Hearing in November 2019, Brent Duke testified that he would be unable to fund a potential sanctions award of \$750,000 [Dkt. 360, 11/7/19 Tr. at pp. 711-712], much less the \$1,263,372.23 Sanction the Court ultimately imposed upon Duke/21CS. [Dkt. 541]. If this Court does not act now to order payment, Duke/21CS will shortly receive substantial distributions which will be subject to

dissipation without such an order. This Court stated during the Evidentiary Hearing on the First Motion for Sanctions that it was concerned about a pyrrhic victory in which the sanctioned parties might escape the financial consequences of their behavior. [Dkt. 360, 11/7/19 Tr. at p. 712] Granting this motion is a step in preventing such an unjust outcome.

The claims register in the Leavens' Bankruptcy Estate includes all filed Proofs of Claim and those not objected to by the Trustee which are *prima facie* valid and will be allowed for distribution purposes. Allowed claims include those of Plaintiffs in the amount of \$1,020,000.00 which is Leavens' share of the Monetary Sanctions.

Based on the pleadings and communications with the Trustee's counsel, the Trustee negotiated a liquidated amount for the Brent Duke/21CS legal malpractice claims against Leavens in lieu of proceeding with a formal claims objection as a means to move the case administration expeditiously. An Order was entered by the Bankruptcy Court for the N.D. of Illinois on August 1, 2023 fixing and allowing their two claims (Duke and 21CS separately) in the amounts of \$625,000.00 each, for a total of \$1,250,000. Ostensibly, this saved the Trustee, the Estate and the Bankruptcy Court from litigating the unliquidated legal malpractice claims that were largely based on speculative damages. We also note that this allowance of the Duke/21CS malpractice claim still allows Duke/21CS to pursue Leavens through his applicable legal malpractice insurance policies. A copy of the August 1, 2023 Bankruptcy Court Order is attached hereto as **Exhibit 1**.

Plaintiffs also note that Kevin Salam (Duke and 21CS's current counsel) filed a petition to adjudicate an attorney's lien for contingency legal fees in order to receive payment from any distribution made to Duke or 21CS from the Leavens Bankruptcy Estate. A copy of Salam's Notice of Petition and Petition to Adjudicate Attorney's Lien Pursuant to 770 ILCS 5/1 filed July 24, 2023 as Docket 60 in the Leavens Bankruptcy is attached hereto as **Exhibit 2**. On August 17, 2023, the

Bankruptcy Court entered an Order approving Salam's Petition. The Order provides that Salam will be paid out of the distributions to Duke or 21CS as follows:

From Duke's Distribution: Salam shall be paid a contingency legal fee equal to 40% of Duke's distribution; plus \$10,000, plus expenses totaling \$6,118.91; and

From 21CS's Distribution: Salam shall be paid a contingency legal fee equal to 40% of 21CS's distribution; plus \$10,000, plus expenses totaling \$6,118.91.

A true copy of the Bankruptcy Court's August 17, 2023 Order is attached hereto as **Exhibit 3**.

Without an order requiring the Monetary Sanctions Order be paid now, these distributions will be made to Duke and 21CS with a share being paid to Salam ahead of the debt owed to Plaintiffs under the Monetary Sanctions Order. With an order requiring payment be made now, Plaintiffs will have the immediate ability to enforce their creditors' rights to attach the applicable distributions from the FDC Leavens' Bankruptcy Estate before they are made to Duke and 21CS. This will allow Plaintiffs to partially satisfy the debt owed under the Monetary Sanctions Order. Without such an order, the distributions will be made by the Trustee to Duke and 21CS with a share to Salam and they will evade the Monetary Sanctions Order to the prejudice of Plaintiffs.

Based on all the foregoing, Plaintiffs ask the Court to enter an order requiring the Monetary Sanctions Order be paid now by all the Sanctioned Parties thereby allowing Plaintiffs the opportunity to assert their rights to attach and recover the above distributions before such monies are paid to Duke/21CS and their counsel, and potentially dissipated to the further prejudice of Plaintiffs.

B. Plaintiffs' Expert Witness Issues Status Report

We have been advised that Plaintiffs' monetary damages expert, Leslie M. Solomon, CPA/ABV/CFF, ASA, has retired and must be replaced with a new witness if there are any further

proceedings after a decision on the pending Second Sanctions Motion. Eight years ago, Plaintiffs retained Mr. Solomon to calculate monetary damages incurred by Plaintiffs due to the unlawful use of Plaintiffs' Registered Trademark 21ST CENTURY SMOKE by Defendants in their website metatags from 2011 to 2013. Mr. Solomon authored an Expert Report dated November 23, 2015 and he was deposed on December 16, 2015. Mr. Solomon confirmed that he is fully retired and cannot provide any further expert witness services in this case.

Based on this development, Plaintiffs will need to retain a new expert witness in the event the Court does not issue case terminating sanctions in this matter. In the event such a scenario comes to pass, Plaintiffs will be required to retain and pay a new expert to duplicate the work performed by Mr. Solomon. The new expert will need sufficient time to review: 1) the same documents and pleadings that Mr. Solomon reviewed in order to author his expert report, and 2) the additional relevant documents produced by Defendants after the discovery end date. This new problem/expense is a direct result of the delay caused by Defendants' and FDC's litigation misconduct and the cascade of events that have ensued which continue to cause seemingly never ending layers of prejudice upon Plaintiffs.

Plaintiffs retained two other expert witnesses in this matter approximately eight years ago: Dr. Robert Vigil (on the issue of the parties' alleged market penetration) and Peter Kent (on the issues of Defendants' alleged misuse of Plaintiffs' Registered trademark in the metatags of Defendants' website). Fortunately, we have been advised that Dr. Vigil and Mr. Kent are still available and practicing in their respective fields. Since Vigil and Kent issued their affirmative reports in 2015 and their rebuttal reports in 2016¹ which followed the close of fact discovery in June 2015, the Defendants have produced over 153,000 new documents in this case. Many of these

¹ In addition, Mr. Kent issued a supplemental rebuttal report on February 17, 2017.

new documents impact the expert opinions proffered by Plaintiffs in this case over seven years ago.

As the Court may recall, in the pending Second Sanctions Motion (See Dkt. 497 filed on September 13, 2021), Plaintiffs detail, *inter alia*, how the Defendants' serial litigation misconduct will impact expert witness do-overs, and it is one of the many reasons Plaintiffs requested case terminating sanctions. However, in the event the Court does not terminate this case, Plaintiffs will need the time for experts Vigil and Kent to review additional voluminous documents and write new or (at the very least) supplemental reports to their Affirmative and Rebuttal Reports in accordance with FRCP 26(a)(2). Specifically, FRCP 26(a)(2)(c) provides that: "These disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosures shall be made at least 90 days before the trial date or the date the case is to be ready for trial."

If, for whatever reason, this case never reaches a disposition on the merits (via case terminating Sanctions, more bankruptcies, etc.), it would lessen the continuing prejudice to the Plaintiffs if they did not have to prematurely and/or unnecessarily incur the expense of: 1) retaining a new expert to replace Mr. Solomon, 2) redoing or supplementing Vigil and Kent expert reports, or 3) identifying and retaining new experts in other disciplines on issues identified in the late produced documents. Consequently, Plaintiffs request that this Court exercise its broad scheduling/administrative powers to provide Plaintiffs with dispensation from the default 90 day before trial requirement contained in Rule 26 above, and enter an order consistent with the "at the times and in the sequence directed by the court" contained in the Rule, such that Plaintiffs do not

have to bear the expense² of all the new expert witness activity until it is clear that a trial will actually occur in this matter.

C. Mr. Leavens Availability as a Witness

Finally, Plaintiffs note that Mr. Leavens suffered a health event in March 2022. His counsel previously provided details of his condition during a conference on August 10, 2022. [Dkt. 529, Tr. at pp. 4-10 and 25-30]. It has now been nearly sixteen months since that time and no update has been received. Last Friday (December 1, 2023), Plaintiffs' counsel contacted Leavens' counsel for an update on his client's availability to be a witness in this case. His counsel did respond that he would look into the issue, but has not provided an update and Plaintiffs are unaware of Leavens' condition or his availability to participate in this case. As stated at the conference held in August 2022 and given the Bankruptcy shielding Leavens from further financial liability, Plaintiffs request that the Court initiate whatever process it deems necessary to adjudicate Plaintiffs' Second Motion for Sanctions (filed on September 13, 2021 at Dkt. 497) regardless of the availability of Mr. Leavens.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that: 1) the Court order that the Monetary Sanctions are immediately due and payable as a Final Judgment such that Plaintiffs may immediately commence appropriate enforcement proceedings, 2) enter a scheduling order that provides Plaintiffs with protection from further prejudice in conjunction with expert witness retention and report updating until such time, if ever, it is necessary, and 3) initiate whatever proceedings the Court deems necessary to adjudicate Plaintiffs' Second Motion for Sanctions.

² Plaintiffs would ultimately seek to recover from Defendants/FDC these expenses as part of the adjudication of Plaintiffs' Second Motion for Sanctions.

Respectfully submitted,

Dated: December 5, 2023

Attorneys for Plaintiffs

/s/ Anthony J. Davis

Anthony J. Davis
Santomassimo Davis LLP
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Parsippany, NJ 07054
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and

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Lake Forest, IL 60045
Phone: (888) 376-7475
rvo@vonohlenlaw.com

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:)
THOMAS ROBERT LEAVENS,)
)
)
)
)
)
Debtor(s))

BK No.: 21-12369

Chapter: 7

Honorable Jacqueline P Cox

**ORDER APPROVING STIPULATION RESOLVING CLAIM NO. 3-1 ASSERTED BY 21
CENTURY SMOKING, INC. AND CLAIM NO. 4-1 ASSERTED BY BRENT DUKE
PURSUANT TO FED. R. BANKR. P. 9019**

Upon consideration of the motion (the “Motion” and capitalized terms having the meanings ascribed to them in the Motion) of Ira Bodenstein, not individually, but as chapter 7 trustee (the “Trustee”) for the bankruptcy estate of Thomas Robert Leavens, for the entry of an order, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, approving the Trustee's compromise with 21 Century Smoking, Inc. (“21 Century Smoking”) and Brent Duke (“Duke” and together with 21 Century Smoking, the “Claimants”), the terms of which are reflected in the Stipulation Resolving Claim No. 3-1 Asserted by 21 Century Smoking, Inc. and Claim No. 4-1 Asserted by Brent Duke (the “Stipulation”); the relief requested in the Motion appearing to be in the best interests of the Estate and the Debtor's creditors; sufficient notice of the Motion and opportunity for a hearing having been given; and upon due deliberation; it is hereby ORDERED that:

1. The Motion is granted.
2. The Trustee's compromise with Claimants, as reflected in the Stipulation, is approved pursuant to Fed. R. Bankr. P. 9019.
3. Claim No. 3-1, asserted by 21 Century Smoking, Inc., is hereby allowed as a nonpriority general unsecured claim in the amount of \$625,000.
4. Claim No. 4-1, asserted by Brent Duke, is hereby allowed as a nonpriority general unsecured claim in the amount of \$625,000.
5. The Trustee is authorized to take any and all actions as may be necessary or appropriate to implement the terms and provisions of the Stipulation.
6. Notice of the Motion as provided in the Motion, is adequate, sufficient and satisfies the required notice to be provided of the Motion.
7. The Court shall retain jurisdiction to resolve any dispute arising from or related to the interpretation or enforcement of the Stipulation and this Order.

Enter:

Jacqueline P. Cox

Honorable Jacqueline Cox

United States Bankruptcy Judge

Dated: August 01, 2023

Prepared by:

Christina M. Sanfelippo
Cozen O'Connor
123 N. Wacker Drive, Suite 1800
Chicago, Illinois 60606
Tel: (312) 474-4455
csanfelippo@cozen.com

EXHIBIT 2

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

THOMAS ROBERT LEAVENS,

Debtor.

Chapter 7

Case No. 21-12369

Hon. Jacqueline P. Cox

NOTICE OF PETITION/MOTION

TO: See Attached List

PLEASE TAKE NOTICE that on **August 1, 2023, at 1:00 p.m.**, I will appear before the **Honorable Jacqueline P. Cox**, or any judge sitting in that judge's place, **either** in courtroom 680 of the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, **or** electronically as described below, and present **Petition to Adjudicate Attorney's Lien Pursuant to 770 ILCS Section 5/1**, a copy of which is attached.

Important: Only parties and their counsel may appear for presentation of the motion electronically using Zoom for Government. All others must appear in person.

To appear by Zoom using the internet, go to this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by Zoom using a telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is **161 273 2896** and the passcode is **778135**. The meeting ID and passcode can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

Kevin B. Salam,
Attorney for Creditors, Brent Duke and 21
Century Smoking, Inc.

By: /s/ Kevin B. Salam
One of their attorneys

Kevin B. Salam
The Law Offices of Kevin Salam
53 W. Jackson Blvd., Suite 1137
Chicago, IL 60604
Tel: (312)-606-8730
Email: kevin@salamlaw.com

CERTIFICATE OF SERVICE

Kevin B. Salam, an attorney, certifies that he caused to be served a true copy of **Petition to Adjudicate Attorney's Lien Pursuant to 770 ILCS Section 5/1** upon the Electronic Mail Notice List through the ECF System which sent notification of such filing via electronic means on July 24, 2023.

/s/ Kevin B. Salam

Mailing Information for Case 21-12369

Electronic Mail Notice List

- **Ira Bodenstein** iratrustee@cozen.com, IL29@ecfcbis.com
- **Steven B Chaiken** schaiken@ag-ltd.com, srodela@ag-ltd.com
- **Karen R Goodman** kgoodman@cranesimon.com, abell-powell@cranesimon.com
- **Karen R Goodman** kgoodman@cranesimon.com, il24@ecfcbis.com; dkobrynski@cranesimon.com; kgoodman@ecf.axosfs.com; abell-powell@cranesimon.com
- **Allen J Guon** aguon@cozen.com, allen-guon-6333@ecf.pacerpro.com; cknez@cozen.com
- **Christina Sanfilippo** csanfelippo@cozen.com
- **Patrick S Layng** USTPRegion11.ES.ECF@usdoj.gov
- **Kevin H Morse** kmorse@clarkhill.com, blambert@clarkhill.com
- **Barbara L. Yong** blyong@gct.law, mperez@gct.law, myproductionss@gmail.com, rtryzbiak@gct.law, aleon@gct.law; r61390@notify.bestcase.com

Manual Notice List (Via U.S. Mail)

Thomas Robert Leavens
1862 Sherman Avenue
Evanston, IL 60201

Brent Duke and 21 Century Smoking
3915 Lake Circle Dr.
Fallbrook, CA 92028

Manual Notice List (Via email)

Brent Duke and 21 Century Smoking at brentduke@yahoo.com

**IN THE UNITED STATES BANKRUPTCY COURT
OR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

THOMAS ROBERT
LEAVENS,

Debtor.

Chapter 7

Case No. 21-12369

Hon. Jacqueline P. Cox

PETITION TO ADJUDICATE ATTORNEY'S LIEN PURSUANT TO 770 ILCS 5/1

Now comes Kevin B. Salam on behalf of Petitioner, the law firm of Kevin B. Salam PC d/b/a the Law Offices of Kevin Salam and respectfully submits this **Petition to Adjudicate Attorney's Lien Pursuant to 770 ILCS Section 5/1** ("Attorneys Lien Act"). The Petition seeks a hearing upon not less than 5-days' notice for a determination of the enforceability and amount of an attorneys lien in favor Kevin B. Salam PC, d/b/a the Law Offices of Kevin Salam against amounts recovered or to be recovered by the creditors, Brent Duke and 21 Century Smoking, Inc. on their respective claims against the debtor based on alleged legal malpractice. In support thereof, Petitioner states as follows:

1. In or about July 2019, Petitioner was retained by Brent Duke and 21 Century Smoking, Inc. ("Creditors") to represent them in their malpractice claims ("Malpractice Claims") against their former defense counsel, the debtor herein.

2. The current written agreement ("Retainer Agreement") between Creditors and Petitioner for said representation provides "(1) Attorney [Kevin B. Salam, PC] shall be paid a contingent fee of 40%, plus costs (currently \$10,500), plus \$20,000 from any recovery on Client's claims in the Leavens' Bankruptcy, whether by settlement, trial, appeal or otherwise."

3. Creditors, Brent Duke and 21 Century Smoking, Inc. have reached a

settlement with the Trustee on their respective claims (Claim 4-1 and Claim 3-1) timely filed herein and the Trustee has noticed before this court his motion for approval under Fed. R. Bankr. P. 9019, for August 1, 2023 at 1:00pm. (Dkt. 57).

4. 770 ILCS Section 5/1 (“Attorneys Lien Act”) provides in relevant part:

Attorneys at law shall have a lien upon all claims, demands and causes of action, including all claims for unliquidated damages, which may be placed in their hands by their clients for suit or collection, or upon which suit or action has been instituted, for the amount of any fee which may have been agreed upon by and between such attorneys and their clients, or, in the absence of such agreement, for a reasonable fee, for the services of such suits, claims, demands or causes of action, plus costs and expense.

To enforce such lien, such attorneys shall serve notice in writing, which service may be made by registered or certified mail, upon the party against whom their clients may have such suits, claims or causes of action, claiming such lien and stating therein the interest they have in such suits, claims, demands or causes of action. Such lien shall attach to any verdict, judgment or order entered and to any money or property which may be recovered, on account of such suits, claims, demands or causes of action, from and after the time of service of the notice. On petition filed by such attorneys or their clients any court of competent jurisdiction shall, on not less than 5 days' notice to the adverse party, adjudicate the rights of the parties and enforce the lien.

5. As required by the Attorneys Lien Act, Petitioner served its Notice of

Attorneys Lien by certified mail upon the “party” against whom Creditors had the malpractice claim, the debtor, Thomas Robert Leavens. Attached as **Group Exhibit A** is a true and correct copy of the Notice of Attorneys Lien dated June 15, 2023 to the Thomas Robert Leavens and the return receipt signed for by Thomas Leavens on June 22, 2015.

6. Although not required by the Attorneys Lien Act, on June 16, 2023, Petitioner sent to the Trustee, Ira Bodenstein, an identical Notice of Attorneys Lien and a copy of the Notice of Attorneys Lien sent to the debtor, Thomas Robert Leavens. The Trustee’s counsel, Christina Sanfilipo, confirmed receipt of same in an email dated July 6, 2023. Attached as **Group Exhibit B** are true and correct copies of Christina Sanfilipo’s email, the copies of the Notices of Lien and the Certified Mailing Receipt post marked June 16, 2023. While the Trustee’s counsel has confirmed receipt by the Trustee of the Notice sent by certified mail, the Petitioner never received the return receipt. Petitioner repeatedly contacted the U.S. Post Office and filed a missing mail request. However, the post office has not been able to find the return receipt.

7. On or about July 6, 2023, Petitioner emailed a letter to the Trustee dated June 20, 2023 in which Petitioner’s clients, the creditors, Brent Duke and 21 Century Smoking, Inc., confirmed for the Trustee that they acknowledged the fee agreement disclosed in the Notice of the Attorneys Lien and consented to payment of the lien amounts indicated therein; specifically, “40% of the distribution on both Brent Duke’s Claim 3-1 and 21 Century Smoking, Inc.’s’ Claim 4-1, plus \$20,000.00 plus \$11,470.25 in costs/expenses.” A true and correct copy of this letter dated June 20, 2023 from Petitioner to the Trustee is attached hereto as **Exhibit C**.

Wherefore, Petitioner respectfully request that this Court set a hearing on not less than 5-days' notice for the purpose of adjudicating Petitioners attorneys lien and a determination of the amount owed thereon and an order directing that the Trustee pay said amount to the law firm of Kevin B. Salam, PC from the money to be distributed by Trustee on Claim 3-1 and Claim 4-1 filed by Brent Duke and 21 Century Smoking, Inc.

Date: July 24, 2023

Respectfully submitted,
Kevin B. Salam,
Attorney for Brent Duke and
21 Century Smoking, Inc.

/s/ Kevn B. Salam

Kevin B. Salam
The Law Offices of Kevin Salam
53 W. Jackson Blvd., Suite 1137
Chicago, IL 60604
Tel: (312)-606-8730
Email: kevin@salamlaw.com

original

NOTICE OF ATTORNEY'S LIEN

Via Certified Mail

Receipt No. 9589 0710 6270 0625 5952 09

To: Thomas Robert Leavens
685 Saddle View Way
Park City, Utah 84060

Cc: Ira Hadenstein, Trustee

You are notified that Brent Duke and 21 Century Smoking, Inc. have previously placed in the hands of Kevin B. Salam, PC, as their attorney, for action or collection, a claim, demand, or cause of action against Thomas Robert Leavens and the Bankruptcy Estate of the Debtor, Thomas Robert Leavens (US Bankruptcy Court for the Northern District of Illinois, Case 21-12369) arising from the alleged professional negligence of attorney Thomas Robert Leavens ("Malpractice Claims") committed by him in representing Brent Duke and 21 Century Smoking in *Dill Distributors et al. v. 21 Century Smoking, Inc. et al.*, Case 12-CV-50324, pending in the US District Court for the Northern District of Illinois, Western Division. And Brent Duke and 21 Century Smoking have agreed to pay Kevin B. Salam, PC, attorney fees (1) a 40% contingent fee and \$20,000, plus expenses and costs incurred to date or to be incurred in the future, including Kevin B. Salam, PC's payment of legal fees and costs on their behalf to their bankruptcy attorney, Bush L. Young of Golub Christie Taglia LLP. This Notice of Lien shall supersede any prior Notices of Lien.

Date: June 15, 2023

Kevin B. Salam,

Kevin B. Salam, PC d/b/a

The Law Office of Kevin B. Salam

53 W. Jackson Blvd., Suite 1137

Chicago IL 60604


312-606-8730

Kevin.Salam@wsjcm.com

Attorney for Brent Duke
and 21 Century Smoking, Inc.

GROUP EXA

PJ

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY																	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature x <i>Thomas Leewick</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>																	
1. Article Addressed to: <i>Thomas Robert Leewick</i> <i>685 Saddle View Way</i> <i>Park City, Utah 84060</i>		<p>B. Received by (Printed Name) <i>Thomas Leewick</i> C. Date of Delivery <i>6/22/23</i></p>																	
 9590 9402 7573 2098 0944 40		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>																	
2. Article Number (Transfer from service label) 9589 0710 5270 0625 5952 09		<p>3. Service Type</p> <table border="0"><tr><td><input type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td></td></tr><tr><td><input type="checkbox"/> Insured Mail</td><td></td></tr><tr><td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td><td></td></tr></table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																		
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																		
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																		
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<input type="checkbox"/> Insured Mail																			
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																			
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt																	

GROUP EXA
p. 2

RE: Voicemail Message from WIRELESS CALLER (3123883510)

Sanfelippo, Christina <CSanfelippo@cozen.com>

Thu 7/6/2023 11:04 AM

To: SALAM KEVIN <kevin@salamlaw.com>

Cc: Bodenstein, Ira <IBodenstein@cozen.com>

📎 1 attachments (836 KB)

[Untitled].pdf;

Kevin:

As discussed, attached please find a copy of the Notice of Attorney's Lien received by the Trustee.

Please send the executed stipulation.

Thank you.

Christina Sanfelippo

Associate | Cozen O'Connor

123 North Wacker Drive, Suite 1800 | Chicago, IL 60606

P: 312-474-4455 F: 312-229-0558

[Email](#) | [Bio](#) | [Map](#) | [cozen.com](#)

Group Ex B
P. 1 of 4.

original

NOTICE OF ATTORNEY'S LIEN

Via Certified Mail

Receipt No. 98890710 52700625 5952 16

To: Ira Bodenstein, Trustee
Cozen O'Connor
123 N. Wacker Dr., Suite 1800
Chicago, IL 60606

Cc: Thomas Robert Leavens

You are notified that Brent Duke and 21 Century Smoking, Inc. have previously placed in the hands of Kevin B. Salam, PC, as their attorney, for action or collection, a claim, demand, or cause of action against Thomas Robert Leavens and the Bankruptcy Estate of the Debtor, Thomas Robert Leavens (US Bankruptcy Court for the Northern District of Illinois, Case 21-12369) arising from the alleged professional negligence of attorney Thomas Robert Leavens ("Malpractice Claims") committed by him in representing Brent Duke and 21 Century Smoking in *DR Distributors et al. v. 21 Century Smoking, Inc. et al.*, Case 12-CV 50324, pending in the US District Court for the Northern District of Illinois, Western Division. And Brent Duke and 21 Century Smoking have agreed to pay Kevin B. Salam, PC attorney fees (1) a 40% contingent fee and \$20,000, plus expenses and costs incurred to date or to be incurred in the future, including Kevin B. Salam PC's payment of legal fees and costs on their behalf to their bankruptcy attorney, Barb L. Yong of Golan Christie Taglia LLP. This Notice of Lien shall supersede any prior Notices of Lien.

Date: June 15, 2023

Kevin B. Salam,

Kevin B. Salam, PC d/b/a

The Law Office of Kevin B. Salam

53 W. Jackson Blvd., Suite 1137

Chicago IL, 60604

312-606-8730

kevin@salamlaw.com

Attorney for Brent Duke
and 21 Century Smoking, Inc.

gross EXP.
P. 204.

NOTICE OF ATTORNEY'S LIEN

Via Certified Mail
Receipt No.

To: Thomas Robert Leavens
685 Saddle View Way
Park City, Utah 84060

~~Central Holding Trust~~

You are notified that Brent Duke and 21 Century Smoking, Inc. have previously placed in the hands of Kevin B. Salam, PC, as their attorney, for action or collection, a claim, demand, or cause of action against Thomas Robert Leavens and the Bankruptcy Estate of the Debtor, Thomas Robert Leavens (US Bankruptcy Court for the Northern District of Illinois, Case 21-12369) arising from the alleged professional negligence of attorney Thomas Robert Leavens ("Malpractice Claims") committed by him in representing Brent Duke and 21 Century Smoking in *DR Distributors et al. v. 21 Century Smoking, Inc. et al.*, Case 12-CV 50324, pending in the US District Court for the Northern District of Illinois, Western Division. And Brent Duke and 21 Century Smoking have agreed to pay Kevin B. Salam, PC attorney fees (1) a 40% contingent fee and \$20,000, plus expenses and costs incurred to date or to be incurred in the future, including Kevin B. Salam PC's payment of legal fees and costs on their behalf to their bankruptcy attorney, Barb L. Yong of Golan Christie Taglia LLP. This Notice of Lien shall supersede any prior Notices of Lien.

Date: June 15, 2023
Kevin B. Salam,
Kevin B. Salam, PC d/b/a
The Law Office of Kevin B. Salam
53 W. Jackson Blvd., Suite 1137
Chicago IL, 60604
312-606-8730
kevin@salamlaw.com


Attorney for Brent Duke
and 21 Century Smoking, Inc.

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THE LAW OFFICES OF
KEVIN SALAM

June 21, 2023

Via email: ibodenstein@cozen.com
csanfelippo@cozen.com

Ira Bodenstein, Trustee
Christina Sanfelippo
Cozen O'Connor
123 N. Wacker Dr., Suite 1800
Chicago, IL 60606

Re: Estate of the Debtor, Thomas Robert Leavens, Case 21-12369


Dear Mr. Bodenstein:

My clients and I provide this letter as a follow up to the recent updated Certified Notice of Attorney Lien, a copy of which is included herewith. This lien supersedes all prior notice of attorney liens previously sent to you by certified mail.

Pursuant to the updated Notice of Attorney Lien and pursuant to 770 ILCS Section 5/1, please arrange to set aside and pay to my firm 40% of the distribution on both Brent Duke's Claim 3-1 and 21 Century Smoking, Inc.'s Claim 4-1, plus \$20,000.00 plus \$11,470.25 in costs/expenses.

My clients have signed this letter as an acknowledgment to their consent to payment of the above lien amounts and as an acknowledgement of their written agreement to the fee and cost/expense arrangements disclosed in the Notice of Attorney Lien and that they have been provided an itemized statement of the above costs.

Sincerely,


Kevin B. Salam

Acknowledgment by:

Brent Duke

Brent Duke, individually.
and as President and sole shareholder
of 21 Century Smoking, Inc.

Date: June 20, 2023

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EXHIBIT 3

Form G5 (20210922_bko)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:

Thomas Robert Leavens

Debtor(s)

)
)
)
)
)
)
)

Case Number: 21-12369

Chapter: 7

Honorable Jacqueline Cox

ORDER ADJUDICATING ATTORNEYS LIEN

This matter coming before the Court for hearing on the Petitioner's Kevin B. Salam PC's Petition to Adjudicate Attorneys Lien pursuant to 770 ILCS Section 5/1 (Dkt. 60), due notice having been given; Ira Bodenstein, Trustee, Kevin B. Salam and Brent Duke appearing by Zoom video conference:

It is hereby Ordered:

The Court finds that Petitioner Kevin B. Salam has established his attorneys lien in the following amounts to be paid to Kevin B. Salam, PC by the Trustee from the distribution on Claim 3-1 of 21 Century Smoking, Inc. and from the distribution of Claim 4-1 of Brent Duke: 40% of the distribution on Claim 3-1 and Claim 4-1; \$10,000 each from the distribution on Claim 3-1 and Claim 4-1; and \$6,118.91 each from the distribution on Claim 3-1 and Claim 4-1.

The status hearing set for August 22, 2023 is stricken.

Enter:

Dated:

August 17, 2023

Jacqueline Cox
United States Bankruptcy Judge

Prepared by:

Kevin B. Salam
Kevin B. Salam PC
53 W. Jackson Blvd, #1137
Chicago, IL 60604
312-606-8730
kevin@salamlaw.com